IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1338 OF 2007
(LEAVE TO FILE APPEAL)

Ajinkya Sahakari Pathsanstha Maryadit .. Applicant
v/s.
Sou. Mandakini Vishwas Wagh and another .. Respondents

Mr. S.D. Patil for the applicant.
Mr. P.A. Pol, APP for the respondent-State.

CORAM : B.H. MARLAPALLE, J.
DATED : 6TH AUGUST, 2007

P.C.

Heard Mr. S.D. Patil, learned counsel for the applicant.

2. Looking to the reasoning set out by the learned Joint Judicial Magistrate, First Class at Thane, there is no case made out to grant leave to appeal.

3. At the first instance, Article-D dated 15.10.2004 stated an amount of Rs.26,019/- as due. However, one month prior to the notice filed under Article-D, accused was liable for the dues of Rs.2,090/- only. The trial court, therefore, noted that it was impossible to raise the amount of Rs.2,090/- to Rs.26,019/- within a period of one month. In addition, the complainant in his cross-examination has stated that the balance amount due from the accused on the date of the cheque was Rs.3,300/-. The complainant produced the statement of account at Exhibit 41 and has admitted on perusing the original register that on

27.11.2004, the accused was liable to pay an amount of Rs.4,400/-. The loan amount sanctioned to the accused was Rs.25,000/- with the monthly instalment of Rs.694/- plus interest and the loan was granted in 36 monthly instalments and thus, the applicant has failed to prove that the accused has liability to pay an amount of Rs.26,019/- more so, when the accused had repayed 24 instalments.

4. Hence leave to appeal is hereby refused and the application stands rejected.

(B.H. MARLAPALLE, J.)